

REMARKS

This is a Preliminary Amendment filed with a Request for Continued Examination (RCE). Upon entry of this Preliminary Amendment, claims 1-5 and 7-15 are pending in this application and claims 6 and 16 have been cancelled without prejudice or disclaimer or withdrawn. Claims 1, 2, 4, 7, 8, and 12 have been amended. It is believed that the foregoing amendments add no new matter to the present application and that a new search is not required based on the amendments and/or arguments.

CLAIMS**Claim 1**

Claim 1 is rejected under 35 U.S.C. §103 as purportedly being anticipated by the reference US 6,157,435 in view of US 6,642,956. Claim 1 reads as follows:

1. A digital image routing system, comprising:

means for *receiving a digital image packet at a digital image routing system, wherein the digital image packet was directly sent from a customer via a network to the digital image routing system, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter;*

means for *selecting a remote digital image editing system according to the customer preference parameter using the digital image routing system;* and

means for *transmitting the digital image packet to the selected remote digital image editing system from the digital image routing system via the network.*

(Emphasis added). The Applicants traverse the previous rejection and submit that the rejection of claim 1 under 35 U.S.C. §103 should be withdrawn because ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest the highlighted portions in claim 1 above. In particular, ‘435 teaches that the “IDM 50 can perform enhancements to such digital images signals...or any other digital image manipulation which the customer may find desirable...”. Reference ‘435 does not disclose, teach, or suggest “selecting a remote

digital image editing system according to the customer preference parameter using the digital image routing system... transmitting the digital image packet to the selected remote digital image editing system from the digital image routing system via the network.” In particular, ‘435 does not disclose, teach, or suggest that the remote digital image editing system for which the digital image packet is transmitted too is selected by the customer via the customer preference parameter using the digital image routing system. ‘435 only mentions digital image manipulation.

In addition, ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest “receiving a digital image packet at a digital image routing system, wherein the digital image packet was directly sent from a customer via a network to the digital image routing system, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter.” In particular, ‘435 teaches scanning information from an envelope that includes therein standard film, but does not teach that the digital image is received directly from a customer via a network. ‘956 teaches that “an electronic copy of a particular captured image” can be sent to a third party (Col. 10, lines 40-43), but ‘956 does not teach a customer preference parameter and, in particular, does not teach sending additional data in a digital image packet with the digital image directly from a customer via the network. Therefore, ‘435 in view of ‘956 does not disclose, teach, or suggest “receiving a digital image packet at a digital image routing system, wherein the digital image packet was directly sent from a customer via a network to the digital image routing system, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter.” For at least these reasons, the rejection to claim 1 should be withdrawn.

In addition, the Applicants respectfully submit that pending dependent claims 2 and 3 include every feature of independent claim 1. Thus, pending dependent claims 2 and 3 are

allowable over the prior art of record. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Claim 4

Claim 4 is rejected under 35 U.S.C. §103 as purportedly being anticipated by the references US 6,157,435 in view of US 6,642,956. Claim 4, as amended, reads as follows:

4. A digital image enhancement system, comprising:
 - means for *receiving a digital image packet directly from a customer via a network, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter*;
 - means for *selecting a remote digital image editing system according to the customer preference parameter*;
 - means for *transmitting the digital image packet to the selected remote digital image editing system*;
 - means for *enhancing the digital image at the selected remote digital image editing system based on the customer preference parameter*; and
 - means for *transmitting an enhanced digital image packet to the customer via the network*, wherein the enhanced digital image packet includes an enhanced digital image and an enhancement description packet that describes the enhancements made for each of the digital images.

(Emphasis added). The Applicants traverse the rejection and submit that the rejection of claim 4 under 35 U.S.C. §103 should be withdrawn because ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest the highlighted portions in claim 4 above. In particular, ‘435 teaches that the “IDM 50 can perform enhancements to such digital images signals...or any other digital image manipulation which the customer may find desirable...”. Reference ‘435 does not disclose, teach, or suggest “selecting a remote digital image editing system according to the customer preference parameter ... transmitting the digital image packet to the selected remote digital image editing system.” In particular, ‘435 does not disclose, teach, or suggest that the remote digital image editing system for which the digital image packet is transmitted too is selected by the customer via the customer preference parameter using the digital image routing system. ‘435 only mentions digital image manipulation. Also, ‘435 and ‘956, in combination or individually, do not disclose, teach, or

suggest “enhancing the digital image at the selected remote digital image editing system based on the customer preference parameter”. In particular, ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest that both the selected remote digital image editing system to send the digital image packet, as well as the enhancements to be made to the digital images are based on the customer preference parameter.

In addition, ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest “receiving a digital image packet directly from a customer via a network, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter.” In particular, ‘435 teaches scanning information from an envelope that includes therein standard film, but does not teach that the digital image is received directly from a customer via a network. ‘956 teaches that “an electronic copy of a particular captured image” can be sent to a third party (Col. 10, lines 40-43), but ‘956 does not teach a customer preference parameter and, in particular, does not teach sending additional data in a digital image packet with the digital image directly from a customer via the network as mentioned above. Therefore, ‘435 in view of ‘956 does not disclose, teach, or suggest “receiving a digital image packet from a customer via a network, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter.”

Furthermore, ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest “transmitting an enhanced digital image packet to the customer via the network.” For at least these reasons, the rejection to claim 4 should be withdrawn.

In addition, the Applicants respectfully submit that pending dependent claim 5 include every feature of independent claim 4. Thus, pending dependent claim 5 are allowable over the prior art of record.

Claim 7

Claim 7 is rejected under 35 U.S.C. §103 as purportedly being anticipated by the references US 6,157,435 in view of US 6,642,956. Claim 7, as amended, reads as follows:

7. A digital image routing method, comprising the steps of:
receiving a digital image packet at a digital image routing system, wherein the digital image packet was directly sent from a customer via a network to the digital image routing system, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter;
selecting a remote digital image editing system according to the customer preference parameter using the digital image routing system; and
transmitting the digital image packet to a the selected remote digital image editing system from the digital image routing system via the network.

(Emphasis added). The Applicants traverse the previous rejection and submit that the rejection of claim 7 under 35 U.S.C. §103 should be withdrawn because ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest the highlighted portions in claim 7 above. In particular, ‘435 teaches that the “IDM 50 can perform enhancements to such digital images signals...or any other digital image manipulation which the customer may find desirable...”. Reference ‘435 does not disclose, teach, or suggest “selecting a remote digital image editing system according to the customer preference parameter using the digital image routing system... transmitting the digital image packet to the selected remote digital image editing system from the digital image routing system via the network.” In particular, ‘435 does not disclose, teach, or suggest that the remote digital image editing system for which the digital image packet is transmitted too is selected by the customer via the customer preference parameter using the digital image routing system. ‘435 only mentions digital image manipulation.

In addition, ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest “receiving a digital image packet at a digital image routing system, wherein the digital image packet was directly sent from a customer via a network to the digital image

routing system, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter.” In particular, ‘435 teaches scanning information from an envelope that includes therein standard film, but does not teach that the digital image is received directly from a customer via a network. ‘956 teaches that “an electronic copy of a particular captured image” can be sent to a third party (Col. 10, lines 40-43), but ‘956 does not teach a customer preference parameter and, in particular, does not teach sending additional data in a digital image packet with the digital image directly from a customer via the network. Therefore, ‘435 in view of ‘956 does not disclose, teach, or suggest “receiving a digital image packet at a digital image routing system, wherein the digital image packet was directly sent from a customer via a network to the digital image routing system, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter.” For at least these reasons, the rejection to claim 7 should be withdrawn.

In addition, the Applicants respectfully submit that pending dependent claim 8-11 include every feature of independent claim 7. Thus, pending dependent claim 5 are allowable over the prior art of record.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 7, dependent claim 11 recites further features and/or combinations of features that are patentably distinct from the cited references.

Applicant submits that the rejection of claim 11 under 35 U.S.C. §103 should be withdrawn because ‘435 in view of ‘956 and ‘675 do not disclose, teach, or suggest at least “storing an enhancement performed on a previous digital image; analyzing the enhancement performed on the previous digital image; and establishing the enhancement parameter to be used by the automatic digital image enhancement system to automatically enhance the digital image”.

Before addressing the references with respect to claim 11, it should be noted that the Office has not met its burden of proving a *prima facie* case of obviousness because the Office has not provided any motivation to combine the '435 in view of '956 and '675 references. When the Board of Patent Appeals and Interferences' rejected a need for any specific hint or suggestion in the art to combine references, this was recently held to be legal error. See *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002). The Office "cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies." *Id.* at 1345. Further, the court stated that the specific teaching that would have suggested the claimed combination must be present, and subjective belief could not be relied on.

Here, the Office has made just such a subjective conclusory statement that "Lee teaches that this process helps in solving the problem of inconsistent, costly, and time-consuming methods of image enhancement by upgrading the parameters of the image enhancement." (*Office Action* at 13.) This is merely a conclusory statement. The Office does not show where there is any motivation in the references themselves for combining them, or set out any reasons as to why the references should be combined.

Even if the references are deemed to be properly combinable, they nevertheless, individually or in combination, do not teach or suggest all of the features of claim 11. As admitted in the Office Action, '435 and '956 do not teach "storing an enhancement performed on a previous digital image; analyzing the enhancement performed on the previous digital image; and establishing the enhancement parameter to be used by the automatic digital image enhancement system to automatically enhance the digital image". '675 does not cure this deficiency, for at least the reason that it teaches computer vision applications in video inspections, but does not describe, at least, automatically enhancing digital images obtained from a digital camera. Therefore, for at least these reasons, the rejection of claim 11 should

be withdrawn.

Claim 12

Claim 12 is rejected under 35 U.S.C. §103 as purportedly being anticipated by the references US 6,157,435 in view of US 6,642,956. Claim 12, as amended, reads as follows:

12. A digital image enhancement method, comprising the steps of:
receiving a digital image packet directly from a customer via a network, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter;
selecting a remote digital image editing system according to the customer preference parameter;
transmitting the digital image packet to the selected remote digital image editing system;
enhancing the digital image at the selected remote digital image editing system based on the customer preference parameter; and
transmitting an enhanced digital image packet to the customer via the network, wherein the enhanced digital image packet includes an enhanced digital image and an enhancement description packet that describes the enhancements made for each of the digital images.

(Emphasis added). The Applicants traverse the rejection and submit that the rejection of claim 12 under 35 U.S.C. §103 should be withdrawn because ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest the highlighted portions in claim 12 above. In particular, ‘435 teaches that the “IDM 50 can perform enhancements to such digital images signals...or any other digital image manipulation which the customer may find desirable...”. Reference ‘435 does not disclose, teach, or suggest “selecting a remote digital image editing system according to the customer preference parameter ... transmitting the digital image packet to the selected remote digital image editing system.” In particular, ‘435 does not disclose, teach, or suggest that the remote digital image editing system for which the digital image packet is transmitted too is selected by the customer via the customer preference parameter using the digital image routing system. ‘435 only mentions digital image manipulation. Also, ‘435 and ‘956, in combination or individually, do not disclose,

teach, or suggest “enhancing the digital image at the selected remote digital image editing system based on the customer preference parameter”. In particular, ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest that both the selected remote digital image editing system to send the digital image packet, as well as the enhancements to be made to the digital images are based on the customer preference parameter.

In addition, ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest “receiving a digital image packet directly from a customer via a network, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter.” In particular, ‘435 teaches scanning information from an envelope that includes therein standard film, but does not teach that the digital image is received directly from a customer via a network. ‘956 teaches that “an electronic copy of a particular captured image” can be sent to a third party (Col. 10, lines 40-43), but ‘956 does not teach a customer preference parameter and, in particular, does not teach sending additional data in a digital image packet with the digital image directly from a customer via the network as mentioned above. Therefore, ‘435 in view of ‘956 does not disclose, teach, or suggest “receiving a digital image packet from a customer via a network, wherein the digital image packet includes a digital image from a digital camera and a customer preference parameter.”

Furthermore, ‘435 and ‘956, in combination or individually, do not disclose, teach, or suggest “transmitting an enhanced digital image packet to the customer via the network.” For at least these reasons, the rejection to claim 12 should be withdrawn.

In addition, the Applicants respectfully submit that pending dependent claims 13-15 include every feature of independent claim 12. Thus, pending dependent claims 13-15 are allowable over the prior art of record.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 12, dependent claim 15 recites further features and/or combinations of

features that are patentably distinct from the cited references.

Applicant submits that the rejection of claim 15 under 35 U.S.C. §103 should be withdrawn because ‘435 in view of ‘956 and ‘675 do not disclose, teach, or suggest at least “storing an enhancement performed on a previous digital image; analyzing the enhancement performed on the previous digital image; and establishing the enhancement parameter to be used by the automatic digital image enhancement system to automatically enhance the digital image”.

Before addressing the references with respect to claim 15, it should be noted that the Office has not met its burden of proving a *prima facie* case of obviousness because the Office has not provided any motivation to combine the ‘435 in view of ‘956 and ‘675 references. When the Board of Patent Appeals and Interferences’ rejected a need for any specific hint or suggestion in the art to combine references, this was recently held to be legal error. See *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002). The Office “cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies.” *Id.* at 1345. Further, the court stated that the specific teaching that would have suggested the claimed combination must be present, and subjective belief could not be relied on.

Here, the Office has made just such a subjective conclusory statement that “Lee teaches that this process helps in solving the problem of inconsistent, costly, and time-consuming methods of image enhancement by upgrading the parameters of the image enhancement.” (*Office Action* at 13.) This is merely a conclusory statement. The Office does not show where there is any motivation in the references themselves for combining them, or set out any reasons as to why the references should be combined.

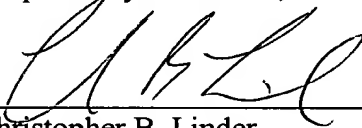
Even if the references are deemed to be properly combinable, they nevertheless, individually or in combination, do not teach or suggest all of the features of claim 15. As

admitted in the Office Action, '435 and '956 do not teach "storing an enhancement performed on a previous digital image; analyzing the enhancement performed on the previous digital image; and establishing the enhancement parameter to be used by the automatic digital image enhancement system to automatically enhance the digital image". '675 does not cure this deficiency, for at least the reason that it teaches computer vision applications in video inspections, but does not describe, at least, automatically enhancing digital images obtained from a digital camera. Therefore, for at least these reasons, the rejection of claim 15 should be withdrawn.

CONCLUSION

The Applicants respectfully request that all outstanding rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone the Applicant's undersigned counsel.

Respectfully submitted,



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